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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 09/677,805 | 10/02/2000 | William Bedingham | 55943 USA 1A | 3624 |
| 32692 | 7590 | 10/20/2003 | | |
| 3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427 | | | | |
| | | | EXAMINER GORDON, BRIAN R | |
| | | | ART UNIT 1743 | PAPER NUMBER |

DATE MAILED: 10/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/677,805

Applicant(s)

BEDINGHAM ET AL.

Examiner

Brian R. Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8-6-03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-49 is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 6-8, 13 and 16-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8-6-03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed August 6, 2003 have been fully considered but they are not persuasive. Applicant asserts that Sommervold US 4,236,894 does not teach ".....retention structure (for the processing device) occupying a portion of the upper surface of the platform....". Contrary to applicant's assertion, the examiner asserts that while it is not specifically recited in the text of the disclosure, Sommervold does teach a retention means. In figure 1, it can be seen that the sample source (circular rotating multi chambered processing device) is retained or rests within an unnamed structure (which appears to be a flat surface with a depression) that occupies a portion of the upper surface of the housing/casing (platform). As such, for the reason given above the examiner hereby maintains the previous 102 rejection of claims 1-5, 9-12, and 14-15 as being anticipated by Sommervold.

Drawings

2. The drawings were received on August 6, 2003. These drawings are approved.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 9-12, and 14-15, are rejected under 35 U.S.C. 102(b) as being anticipated by Sommervold US 4,236,894.

Sommervold discloses an automatic chemical testing apparatus in which radiant energy readings are taken from a liquid sample of reacted contents comprising reagent and one or more aliquots, one per channel, of a sample fluid, a statistically large number of readings are taken on each sample.

As shown in FIG. 1, samples are successively obtained from a sample source 1 (circular rotating multi chambered processing device) and delivered to reaction containers in a reaction loop 2 (plurality of fluid chambers opening in the upper surface of the platform in a rectilinear pattern) having incubation and reagent dispensing stations 3. Reagents are supplied thereto from reagent supply means 4.

Figure 2, shows the parts of the apparatus without being within the platform or retention means of the device. The spindle can be clearly seen connected to the motor 24. It is inherent that the spindle extends upward through opening in the upper surface of the retention means (case/housing).

Allowable Subject Matter

5. Claims 6-8, 13 and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 21-49 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose nor fairly suggest a device comprising

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a plurality of stationary fluid chambers further comprising filter material (required by claims 6-8 and 16-20), complimentary registration structure on the platform and the processing device, the complimentary registration structure aligning the at least one process chamber at the location defined by the rectilinear array of the stationary fluid chambers when the processing device is stationary (claim 13),

The prior art also fails to teach or fairly suggest a method of processing sample material, the method comprising: providing a platform comprising an upper surface and a lower surface, a plurality of stationary fluid chambers opening at the upper surface of the platform; providing a processing device in the retention structure proximate the upper surface of the platform, the processing device comprising a plurality of process chambers; providing sample material in a plurality of the plurality of process chambers on the processing device; delivering energy to the process chambers containing sample material to raise the temperature of the sample materials in the process chambers; and rotating the processing device about an axis of rotation within the retention structure while delivering energy, wherein the temperature of the sample materials in the processing chambers is controlled as the processing device rotates to process the sample materials (required in claims 21-43).

The prior art also fails to teach or fairly suggest a system comprising a workspace comprising a processing station; at least one platform located within the workspace, each platform comprising an upper surface and a lower surface, a plurality of stationary fluid chambers opening at the upper surface of the platform, and retention structure occupying a portion of the upper surface of the platform; at least one

processing device located within the workspace, each processing device comprising a plurality of process chambers, wherein rotation of the processing device within the retention structure on the platform moves the plurality of process chambers in a circular pattern; a spindle located at the processing station; and a transfer device operative within the workspace, the transfer device capable of transferring sample material from the processing station to another location within the workspace (required in claims 44-49).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is (703) 305-0399. The examiner can normally be reached on M-F, with 2nd and 4th F off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Jill Warden
Supervisory Patent Examiner
Technology Center 1700

brg
October 8, 2003